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July 15, 2011

Secretary Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **WC Docket No. 09-197: California Rural ILECs' Notice of Ex Parte  
Communication Regarding Petition by Cricket Communications, Inc. for  
Forbearance of the Rural Study Area Requirement in 47 U.S.C. Section 214**

Dear Secretary Dortch:

On July 13, 2011, representatives of the California Rural ILEC<sup>1</sup> group met with Wireline Competition Bureau staff and Commissioner advisors to discuss the Forbearance Petition by Cricket Communications, Inc. ("Cricket") by which Cricket asks the FCC to forbear from enforcing the rural "study area" requirement under 47 U.S.C. Section 214(e)(5) and 47 C.F.R. Section 54.207. The California Rural ILECs were represented by Patrick Rosvall, their California regulatory counsel, from Cooper, White & Cooper LLP. Also present were David Clark from Kerman Telephone Company and Foresthill Telephone Co. and Andrew Petersen, representing Happy Valley Telephone Company, Hornitos Telephone Company, and Winterhaven Telephone Company. These representatives of the California Rural ILECs first met with Kimberly Scardino and Divya Shenoy from the Wireline Competition Bureau. The group then met with Zachary Katz, advisor to Chairman Genachowski, and finally with Angela Kronenberg, advisor to Commissioner Clyburn. The meetings started at approximately 2:00 p.m., and lasted until 3:30 p.m.

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<sup>1</sup> The California Rural ILECs are the following carriers: Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company.

During the meetings, the California Rural ILEC representatives urged that the Commission should reject Cricket's forbearance petition, and instead defer to the longstanding service territory redefinition process to address situations where prospective wireless Eligible Telecommunications Carriers ("ETCs") cannot or do not wish to serve the entirety of underlying rural service territories. As discussed during the meetings, the forbearance process should not be used to remove the state Commission's ability to consider whether designation of an ETC in only part of a rural service territory is in the public interest. If the FCC permits carriers to avoid the rural study area requirement through the forbearance process, it will strip the states of the ability to consider the important competitive and consumer impacts that can occur if a prospective ETC does not commit to serve all of a rural study area. The states and the FCC have been using the redefinition process for many years, and there has been no showing that it cannot continue to be used by Cricket and other "Lifeline only" ETC applicants. Indeed, the state of Georgia just filed a petition seeking redefinition in the high-cost context, so the process is available and working. *See* Petition for Approval of Redefinition of the Service Area of Windstream Georgia, LLC in the State of Georgia (July 6, 2011).

The California Rural ILEC representatives emphasized that if Cricket accesses Lifeline subsidies to serve customers in more populous areas where it has wireless coverage, this necessarily reduces revenues for the California Rural ILECs, each of whom are regulated under a rate-of-return model. This can in turn impact these rural carriers' abilities to serve the entirety of their very rural service territories, an obligation that they nevertheless must fulfill as carriers of last resort. These issues are important, and are separate from the issue of "creamskimming" that has been examined in connection with ETC requests for high cost support. California should be permitted to consider on a case-by-case basis whether these impacts are significant, and how they will impact consumers. California should be permitted to consider whether or not a service territory redefinition from a wireless carrier is in the public interest. If forbearance is granted, this state oversight and review of the study area requirement will effectively be eliminated. If even one rural company might have a legitimate argument that redefinition is inappropriate, that in itself is enough to retain the process. Should changes be necessary in the manner in which ETC requests and service territory redefinition issues are evaluated, the FCC can consider those modifications as part of the pending reforms in the universal service docket (WC Docket No. 10-90).

The California Rural ILEC representatives referred to three documents during the meetings: (1) the Opposition to the Forbearance Petition (submitted April 20, 2011); (2) the Petition for Approval of Redefinition of the Service Area of Windstream Georgia, LLC in the State of Georgia (filed July 6, 2011); and (3) a handout prepared by the California Rural ILECs, attached as a reference to this letter. Copies of the handout and the letter were provided to each of the participants in the meetings.

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The California Rural ILECs strongly oppose Cricket's forbearance petition, and urge that it be rejected. Should you have any questions about this filing or the issues addressed herein, please contact the undersigned by email at [prosvall@cwclaw.com](mailto:prosvall@cwclaw.com) or by telephone at 415-765-0369.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick M. Rosvall". The signature is fluid and cursive, with the first name "Patrick" and last name "Rosvall" clearly distinguishable.

Patrick M. Rosvall

Enclosure

PMR:ncg

cc: Kimberly Scardino, FCC Wireline Competition Bureau  
Divya S. Shenoy, FCC Wireline Competition Bureau  
Zachary Katz, Advisor to Chairman Genachowski  
Angela Kronenberg, Advisor to Commissioner Clyburn

**The FCC Should Deny Requests for Forbearance of Rural "Service Area" Requirements**  
**July 13, 2011 Meeting with California Rural ILECs**

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**The California Rural ILECs are Small Rate-of-Return Carriers Serving Remote and Rural Areas**

- The California Rural ILECs serve large numbers of rural low-income customers.
- California's rural carriers serve vast geographic areas in which there are few customers, making them extremely high-cost companies.
- In much of the California Rural ILECs' territories, the companies are the only facilities-based providers. In many areas, they are the only providers of any kind.

**The "Study Area" Requirement**

- 47 U.S.C. § 214(e)(1)(A) – "A common carrier designated as an eligible telecommunications carrier . . . shall, . . . throughout the service area for which the designation is received, . . . offer the services that are supported by Federal universal service support mechanisms . . . ."
- 47 U.S.C. § 214(e)(5) – "In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States . . . establish a different definition of service area for such company."
- 47 C.F.R. Section § 54.207 – Describes the process by which service area redefinition can be sought and obtained, upon approval of both the relevant state commission and the FCC.

**The Study Area Requirement Is Important Even In the Context of "Lifeline Only" ETC Requests**

- Congress determined that prospective competitive ETCs must serve the entirety of rural telephone company service territories unless a waiver is obtained. No exception was made for requests for "Lifeline only" designation.
- By serving only low-cost areas near highways and population centers, while neglecting remote, sparsely-populated areas, many competitive ETCs derive cost advantages relative to small, rural carriers.
- If customers in higher-cost portions of rural service territories migrate toward competitive ETCs, the ability of rural ILECs to serve the entirety of their high-cost service territories can be compromised.

**Forbearance from the "Study Area" Requirement Is Not in the Public Interest**

- The current redefinition process allows state commissions an opportunity to evaluate the specific impacts on competition in rural areas and on rural customers.
- The FCC has reviewed many service area redefinition petitions, and there has been no showing that the process is not working as intended. *See Windstream Georgia Petition* (July 6, 2011).
- Neither Cricket nor any other provider has shown that the process is overly expensive or burdensome.
- The FCC is currently evaluating the efficacy of the current ETC designation process, and that forum includes a consideration of whether the "study area" requirement is reasonable.